

**COMMUNITY AFFAIRS**

**Division Of Codes And Standards**

**Liquefied Petroleum Gas**

**Inspection Fee for Non-Odorized LP-Gas Facilities**

**Proposed New Rule: N.J.A.C. 5:18-8.4**

Authorized By: Susan Bass Levin, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 34:1A-3(e) and 21:1B-15; Reorganization Plan No. 002-1998.

Proposal Number: PRN 2006-

Calendar: Reference: See Summary below for explanation of exception to calendar requirement.

Submit written comments by November 17, 2006 to:

Michael L. Ticktin, Esq.

Chief, Legislative Analysis

Department of Community Affairs

PO Box 802

Trenton, NJ 08625

Fax No. (609) 633-6729

E-mail: [mticktin@dca.state.nj.us](mailto:mticktin@dca.state.nj.us)

---

**Susan Bass Levin, Commissioner**

The agency proposal follows.

## **Summary**

The Liquefied Petroleum Gas Act contains a provision that allows the Department of Community Affairs to levy an assessment fee to cover the cost of its inspection program. The Department has established an assessment fee that is applied when LP-Gas is either imported into the State or odorized whichever is later. However, there is no fee levied on non-odorized LP-Gas. Non-odorized LP-Gas facilities, which primarily serve the aerosol industry, account for about 5% of the total bulk LP-Gas facilities in the State. All of the non-odorized LP-Gas facilities that the Department is aware of are either used as a propellant for personal care products or are sold in bulk to other companies. However, there is no revenue collected by the Department for these facilities. The inspection of these facilities is being subsidized through the payments made by odorized LP-Gas. Therefore the cost of these inspections is being unfairly transferred to a different segment of the industry. By creating an inspection fee for non-odorized facilities, the proposed rule will result in a more equitable system for collecting fees that fund the inspection program. The fee is based on the Departments cost to provide the inspection and includes salary, fringe benefits and overhead.

The rule establishes a baseline fee for a half-day inspection and then assesses an additional hourly fee for inspection's that take more than a half-day. The inspection fee is for the time spent on the site and does not include travel time to and from the site.

This proposal replaces proposal number PRN 2006-142, which referred only to propane, and not to other liquefied petroleum gas compounds, namely butane, butylene and propylene. This proposal makes it clear that the fee would apply to inspection of all

non-odorized LP-gas facilities that are subject to the Department's jurisdiction under the Act

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The fee is necessary to ensure that the fees collected are sufficient to cover the cost of administering the liquefied petroleum gas safety program. The program is necessary in order to ensure the safe storage and distribution of liquefied petroleum gas.

### **Economic Impact**

The amendment would create a fee for the inspection of non-odorized LP-Gas facilities. The fee will apply to a select group of marketers and users and will be charged at the time of inspection. Non-odorized facilities are bulk storage facilities that either produce aerosol products or distribute non-odorized LP-Gas to the aerosol industry. These facilities are generally inspected through a triennial audit. For these facilities, the fee would be paid once every three years, at the time of the audit. It is anticipated that the average fee to be charged for an audit will be about \$1200.00. The fee, on an annual basis would be about \$400.00. For smaller systems that require an annual inspection rather than a triennial audit, the Department anticipates that the fee will be \$250.00.

Because of the modest amount, the fee will not have an adverse affect on any of the regulated businesses nor is it likely to result in an increase in the cost of the consumer products that they manufacture.

The fee will help to assure that the Department will continue to have the revenue needed to fund the safety enforcement program, thereby allowing those hazards that would endanger life and property to be abated.

### **Federal Standards Statement**

No Federal standards analysis is required because the rules proposed are not being proposed under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State statute that incorporates or refers to Federal law, standards or requirements.

### **Jobs Impact**

The Department does not anticipate that the rules proposed would result in the creation or loss of any jobs.

### **Agricultural Industry Impact**

The Department does not anticipate that the rules proposed would have any effect on the agricultural industry.

### **Regulatory Flexibility Statement**

Nearly, all of the companies affected would be classified as “small businesses” as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The fee was structured based on the time it takes to do the inspection so that the fee would be as equitable as possible and would not result in an excessive fee for smaller facilities. There are no reporting and recordkeeping requirements associated with the proposal.

### **Smart Growth Impact**

The Department does not expect that this amendment would have any effect upon achievement of smart growth or implementation of the State Development and Redevelopment Plan.

**Full text** of the proposal follows (additions indicated in bold face **thus;** deletions indicated in brackets [thus]).

## **N.J.A.C. 5:18 - 8 – Annual Assessments and Fees for Inspections of Facilities Using Non-odorized LP-Gas**

### **5:18 – 8.4 Fees for inspections of LP-Gas Facilities Using Non-odorized LP-Gas**

- (a) **Facilities using or distributing non-odorized LP-Gas that are subject to either an annual inspection or a triennial audit under these regulations shall be subject to an inspection fee.**

(b) Fees for inspection of non-odorized facilities shall be based on the time and number of staff needed to perform the inspection. A fee of \$250 dollars per inspector shall be assessed for all inspections of non-odorized facilities. For inspections that take more than one half day (4 hours on site) an additional fee of \$40.00 for each inspector hour on site shall be charged.